

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DALE BARTA,

Plaintiff,

vs.

TAMI YEOMANS, RODNEY O'NEIL,
KURBY ALLOWAY, TREVOR KRUSE,
DUANE BROCKMAN, LINDA
HEERMANN, DALE CRANDELL, AND
LARRY DONNER,

Defendants.

8:16CV242

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's Motion to Appoint Counsel. ([Filing No. 6](#)).

Plaintiff filed his complaint on May 31, 2016 ([filing no. 1](#)). He now moves for appointment of counsel. ([Filing No. 6](#)). Plaintiff's single contention is that he is unable to afford an attorney. ([Filing No. 6 at CM/ECF p. 1](#)).

A civil litigant has no constitutional or statutory right to a court-appointed attorney. [Ward v. Smith, 721 F.3d 940, 942 \(8th Cir. 2013\)](#). The trial court, however, has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the pro se party's ability to investigate the facts and present or defend the claims. [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#) (quotation and citation omitted). The court may also consider whether the plaintiff has made reasonable efforts to retain counsel before requesting a court-appointed attorney.

Considering all these factors, the court finds appointment of counsel is not warranted in this case. Plaintiff's complaint alleged violation of civil rights, criminal trespass, and destruction of private property. The claims and defenses at issue are not factually or legally complex. (See [Filing No. 1](#)). The plaintiff has failed to show he is unable to adequately litigate his claims and defenses, and he has not shown that he made reasonable efforts to locate an attorney without court assistance. [Id.](#); see also [28 U.S.C § 1915\(a\)](#).

IT IS THEREBY ORDERED that Plaintiff's Motion to Appoint Counsel, ([filing no. 6](#)), is denied.

Dated this 14th day of June, 2016

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge